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10/802,108	03/17/2004	Gary Alan Williams	4907-002	3224

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LOWE HAUPTMAN & BERNER, LLP
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EXAMINER

BOYCE, ANDRE D

ART UNIT	PAPER NUMBER
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3623

MAIL DATE	DELIVERY MODE
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01/26/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/802,108

Applicant(s)

WILLIAMS, GARY ALAN

Examiner

Andre Boyce

Art Unit

3623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 October 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

1. This Final office action is in response to Applicant's amendment filed October 21, 2008. Claim 19 has been added. Claims 1-19 are pending.
2. Applicant's arguments filed October 21, 2008 have been fully considered but they are not persuasive.

Claim Rejections - 35 USC § 103

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
4. Claims 1-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rebane (U.S. 7,013,285).

As per claim 1, Rebane discloses a method for rating customer demand (i.e., consumer rating of a merchant, column 10, lines 44-46), the method comprising: collecting data representing supplier attributes, customers' desires, supplier's ability to deliver the attributes and dollars paid for that delivery through an input (col. 16, lines 57-61; Figures 1a-2b); storing the collected data to a computer readable media (Figure 3); processing the data through a processor, comprising: reducing the attribute set to a manageable number of demand drivers that represent the attributes in terms of customer desires and supplier delivery with pre-scores for each driver (col. 10, lines 44-65; col. 11, lines 19-40; Figure 5a-6b); creating three identically

scaled norms tables from the pre-scores for customer desires, supplier delivery, and dollars paid that calculate an indexed score (col. 18, lines 26-31; Figure 6b; The ratings are indexed into different categories.); clustering groups of customers using the indexed scores of demand drivers and dollars paid (Figure 6b; Customers are grouped into percentages based on their evaluations of a merchant.); and building and illustrating profiles corresponding to the 3-D customer demand rating through an output (Figure 18; Merchant profiles are built and displayed based on the received customer ratings data.).

While Rebane does disclose generating graphs representing the results of customer ratings, Rebane does not expressly generating the 3-D customer demand rating of each segment based on desires, delivery and dollars. However, providing a graph that is in 3-D form is old and well known in the art. Examiner further submits that the format of the graph used to display the results of customer ratings is mere design choice and does not affect the underlying functionality of how the customer rating data is gathered or calculated. See MPEP §2144.04. At the time of the invention it would have been obvious to a person of ordinary skill in the art to modify Rebane to display the customer ratings data in a 3-D format as a 3-D format provides users with a visual report of merchants' ratings, thereby providing users with merchant evaluations that are easy to discern.

As per claim 2, Rebane discloses wherein inputting data further comprises inputting data representing attributes of a supplier, an industry, a product, a service,

an offering, a program, an event, an emotion, a feeling, a person or any other inanimate or animate object (col. 9, line 60-col. 10, line 5; col. 14, lines 35-45).

As per claim 3, Rebane discloses wherein the customers are identified by demographics, attitudes, behaviors, emotions, purchasing habits, socio-economics and various other unique identifiers (col. 11, lines 55-57; col. 14, lines 35-45).

As per claim 4, Rebane discloses wherein collecting data further comprises customer surveys that are selected from paper surveys, in-person surveys and computer-based surveys (Figures 1a-2b).

Claims 5-18 recite subject matter similar to the limitations already rejected above. Therefore, claims 5-18 are rejected based upon the rationale as claims 1-4 above.

As per claim 19, Rebane discloses a method for rating customer demand (i.e., consumer rating of a merchant, column 10, lines 44-46), the method comprising: collecting data representing supplier attributes, customers' desires, supplier's ability to deliver the attributes and dollars that the customers willing to pay for the delivery of the supplier attributes through an input (col. 16, lines 57-61; Figures 1a-2b); storing the collected data to a computer readable media (Figure 3); processing the data through a processor, comprising: reducing the attribute set to a manageable number of demand drivers that represent the attributes in terms of customer desires and supplier delivery with pre-scores for each driver (col. 10, lines 44-65; col. 11, lines 19-40; Figure 5a-6b); creating three identically scaled norms tables from the pre-scores for customer desires, supplier delivery, and dollars that the customers willing to pay and calculating corresponding indexed scores for each demand driver

in terms of the customer desires, supplier delivery, and dollars that the customers willing to pay (col. 18, lines 26-31; Figure 6b; The ratings are indexed into different categories.); and clustering groups of customers using the indexed scores of demand drivers and dollars paid (Figure 6b; Customers are grouped into percentages based on their evaluations of a merchant.); and building and illustrating profiles corresponding to the 3-D customer demand rating through an output (Figure 18; Merchant profiles are built and displayed based on the received customer ratings data.).

While Rebane does disclose generating graphs representing the results of customer ratings, Rebane does not expressly disclose generating the 3-D customer demand rating of each segment based on desires, delivery and dollars that the customers willing to pay. However, providing a graph that is in 3-D form is old and well known in the art. Examiner further submits that the format of the graph used to display the results of customer ratings is mere design choice and does not affect the underlying functionality of how the customer rating data is gathered or calculated. See MPEP §2144.04. At the time of the invention it would have been obvious to a person of ordinary skill in the art to modify Rebane to display the customer ratings data in a 3-D format as a 3-D format provides users with a visual report of merchants' ratings, thereby providing users with merchant evaluations that are easy to discern.

Response to Arguments

5. In the Remarks, with respect to claim 1, Applicant argues that Rebane fails to teach or suggest reducing the attribute set to a manageable number of demand drivers that represent the attribute in terms of customer desires and supplier delivery with pre-scores for each driver; creating three identically scaled tables from the pre-scores for customer desires, supplier delivery and dollars paid that calculate an indexed score; clustering groups of customers using the indexed scores of demand drivers and dollars paid; generating the 3-D customer demand rating of each segment based on desires, delivery and dollars; and building and illustrating profiles corresponding to the 3-D customer demand rating through an output.

The Examiner respectfully disagrees. First, Rebane discloses that the survey questionnaires may include less attributes, thus being customize to evaluate a particular matter of interest (column 11, lines 49-54), wherein the merchant is rated by the consumer for each attribute, thus indeed disclosing reducing the attribute set to a manageable number of demand drivers that represent the attribute in terms of customer desires and supplier delivery with pre-scores for each driver.

Second, Rebane discloses tables containing the average numerical rating for each attribute, as seen in figures 5a, 5e and 5d (also see column 18, lines 31-19), thus indeed disclosing creating three identically scaled tables from the pre-scores for customer desires, supplier delivery and dollars paid that calculate an indexed score.

Third, Rebane discloses customers clustered according to survey responses, including a percentage of each customer cluster (figures 6a and 6b), thus indeed

disclosing clustering groups of customers using the indexed scores of demand drivers and dollars paid. In addition, Rebane's discussion of a data stabilizer in no way precludes Rebane from teaching Applicant's claimed invention.

Next, Rebane discloses a consumer able to learn more about a merchant, via a link to ratings information, comments and reviews, wherein the rating information may be derived from attribute analysis disclosed by Rebane (figure 18 and column 37, lines 45-62), thus indeed disclosing building and illustrating profiles corresponding to the 3-D customer demand rating through an output. Moreover, it is noted that the features upon which applicant relies (i.e., cross data sets analysis performed to create a set of distinct segments based on what a customer desires and the dollars they are willing to pay for those desires) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Lastly, as discussed in the above rejection, while Rebane does disclose generating graphs representing the results of customer ratings, Rebane does not expressly generating the 3-D customer demand rating of each segment based on desires, delivery and dollars. However, providing a graph that is in 3-D form is old and well known in the art. Examiner further submits that the format of the graph used to display the results of customer ratings is mere design choice and does not affect the underlying functionality of how the customer rating data is gathered or calculated. See MPEP §2144.04.

Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andre Boyce whose telephone number is (571)272-6726. The examiner can normally be reached on 9:30-6pm M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Beth Boswell can be reached on (571) 272-6737. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Andre Boyce/
Primary Examiner, Art Unit 3623
January 19, 2009